

Initial Working Responses to EPA FS Key Elements Comments

July 21, 2011

No.	Directive? ¹	Deadline, If Directive	Schedule Impact to Comply with Comment ²	AQ Approach In Progress?	Anchor QEA Recommended Technical Approach	Schedule Impact for AQ Approach ²
1	Yes	July 29	None	Y	Generally follow the comment.	None
2	Yes	July 29	None	Y	Generally follow the comment.	None
3	No		None	Y	Generally follow the comment. However, LWG does not agree at this time with establishing lower background-based PRGs.	None
4	Yes	July 29	None	Y	Generally follow the comment. Furthermore, the potential impact of dredge residuals on MNR will be evaluated in the draft FS.	None
5	?	July 29	None	Y	Generally follow the comment. Also, it is premature to conclude that the Site will necessarily achieve the upriver input concentrations under any alternative and the potential to achieve this concentration, or not, will be evaluated in the draft FS.	None
6	No		1-2 weeks depending on nature of Agency "participation"	N	Meet with EPA after the draft FS is submitted. Although the LWG is willing to engage in some well-defined phone discussions now, the LWG is concerned that a "working session" could take significant time to coordinate, prepare for, attend, and follow up from. We are also concerned that the agencies will expect changes to the draft FS as a result of such discussions.	None
7	No		None	Y	Generally follow the comment. It should be noted, per the June 21/22 presentation, that the draft FS will present and conduct evaluations for those contaminants that have available PRGs.	None
8	? probably	August 12	4-6 weeks	N	Instead of developing an Alternative G, revise Alternative F to a PCB RAL of 75 ppb with a similar compromise on BaP RALs specified in Comment 11.	1-2 weeks
9	Yes	August 12	Large impact – at minimum several weeks (duration subject to comment clarification)	N	Provide in the draft FS time-zero RAL curves for all non-benthic Early PRG contaminants with risk >10 ⁻⁴ and HQ>1 that are above background and consistent with the risk assessments, but provide no further analysis or discussion of those RALs in the draft FS	2-3 weeks
10	?	August 12	Large impact – at minimum several	N	Conduct approach noted for Comment 9. In addition, as described in the check-in, the draft FS will present how the	See Comment 9

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			weeks (duration subject to comment clarification)		current RALs are inclusive of areas created based upon the Focused PRGs.	
11	Yes	August 12	See Comment 8	N	Conduct approach noted for Comment 8. Also, add a range of 2,3,4,7,8 PCDF RALs to the existing Alternatives progressing from the highest observed Study Area concentration (for smaller alternatives) down to 1.5 ppb for Alternative F.	See Comment 8, plus 1 more week for PCDF RALs (i.e., total 2-3 weeks)
12	Yes	August 12	4-8 weeks	N	The Arkema Early Action should not be determinative of the Harbor-wide RALs/SMAs.	None
13	No		None	Y	Already compliant with comment.	None
14	?	July 29	None	Y	Generally follow the comment.	None
15	? probably	July 29	Large impact – at minimum several weeks (duration subject to comment clarification)	N	Present LWG surface and subsurface SMA development methods in the draft FS. The LWG needs clarification of EPA statements regarding a preference for dredging in all areas that exceed RALs at depth. For example, the LWG does not understand the statement that all subsurface RAL exceedances are “...likely sources of surface contamination.”	None
16	Yes	July 29	2-3 weeks	N	Preliminary review of our volumes indicate that our ratio of total dredge volumes to in-situ dredge volumes range from 1.4 to 2.2. We recommend continuing with the LWG approach because it falls within the range that EPA recommends (1.5 to 2.0; expressed in EPA’s comments as a 50% to 100% scaling factor). The LWG approach is based on sound engineering and construction principles and is more defensible to the public than a general scaling factor.	None
17	Yes	July 29	Large impact – at minimum several weeks (duration subject to comment clarification)	N	The FS will include a full PTM and Hot Spot evaluation consistent with federal guidance and state law, and will apply that analysis in the alternatives evaluation. The LWG does not understand, and needs clarification of, EPA’s statements indicating there should be more extensive removal to lower concentrations in PTM or Hot Spot.	None
18	Yes	July 29	Large impact – at minimum several	N	This comment conflicts with the resolution of the FS Tools General Comment 6 Costing (6/29/11), where it was agreed	None

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			weeks (duration subject to comment clarification)		that a cost factor for structure removal/replacement could be provided, rather than a detailed evaluation of this option. Given that the removal of structures will not be included in the alternatives, we do not understand the need to include removal under those same structures given this would essentially reduce removal in these areas to one very expensive process option (i.e., very small diver assisted suction dredges). The LWG proposes to continue to follow the tools memo resolutions.	
19	Yes	July 29	2-4 weeks (duration subject to comment clarification)	N	This is a new comment regarding technology screening that was not provided as part of EPA's May 18, 2011 technology screening comments. The LWG has not found extensive areas of steep slopes that would preclude capping (at FS-level appropriate detail), and therefore, cannot identify any additional areas where capping should be screened out. Refinement of cap/dredge specifications would occur during remedial design.	None
20	No		None	Y	Generally follow the comment. The draft FS will discuss the types of contingencies that are normally considered in monitoring and contingency plans.	None
21	Yes	July 29	Impact related to when additional information will be provided	N	The draft FS will include a range of on-site and off-site mitigation costs for alternative costing that is inclusive of the \$500K/acre value. However, the LWG would need to receive and review the indicated technical information (e.g., specific existing project costs) in order to determine our opinion with regard to this specific value.	None
22	Yes	July 29	None	Y	Generally follow the comment.	
23	?	July 29	4-12 weeks	N	This comment is counter to the agreement reached in the FS Tools comments resolution of Mitigation Comment #18 (6/29/11). The resolution was that these minimization type activities would be presented and discussed as options in the FS but not specifically applied or costed until the remedial design phase.	None
24	No		None	N	This comment was made on the FS Tools memos, Mitigation	None

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					Comment #11 (6/29/11), and was successfully resolved with respect to accounting for avoidance and minimization costs associated with long term monitoring. The LWG continues to propose following this past resolution on this issue.	
25	Yes	July 29	None	Y	Generally follow the comment.	None
26	No		None	N	The comment does not require any specific changes to the draft FS and is noted. However, the LWG disagrees that such an ends-based approach is consistent with the analysis required under CWA 404 guidance (for which EPA, not NMFS, will need to determine CWA compliance). The LWG also disagrees that it is appropriate for the agencies to not consider the functional value approach for the Site under either the CWA or ESA, especially when it provides a way to evaluate site-specific conditions, which is what EPA has indicated needs to occur during the remedial design phase (see, for example, FS Tools memo comment response/resolution to Mitigation specific comment #15 6/29/11).	None
27	Yes	July 29	None (given that the LWG does not request a follow up meeting)	Y	Generally follow the comment, except no follow up meeting is needed at this time.	None
28	No		None	Y	Generally follow the comment. However, we do not agree that management of waste in the river will be difficult at best. The overall MNR lines of evidence support that MNR is happening over relevant spatial scales at the Site. Also, we agree that baseline monitoring should be conducted by entities other than the LWG, as directed by EPA. The best time for such monitoring would be around the time of the ROD.	None
29	No		None	Y	Generally follow the comment.	None
30	No		None	Y	It is our understanding that the comment does not preclude an analysis and discussion of the uncertainties associated with the risk assessment detection limit assumption, and the LWG intends to provide such an analysis and discussion in the draft	None

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					FS.	
31	No		2 weeks	N	Provide the requested information as part of the draft FS submittal. This would be more efficient, given that much of the information requested is still under development and subject to change. Also, we note that EPA already has some of the information requested (i.e., bathymetry and navigation channel with permitted depth).	None

1 – The LWG requested clarification on the directive nature of EPA’s comments and applicable dispute deadlines by email on July 20, 2011.

2 – Schedule impacts do not include time for discussions/resolutions of comments. For example, if the stated schedule delay for the comment is 1 week, and the comment is discussed for a week before being resolved, the overall schedule delay would be 2 weeks for that item. In other words, the timing of the comments and the continued discussion of comments by itself is currently causing schedule delays. Also, in general, schedule impacts can be assumed to be non-additive between comments. However, as a larger number of changes are made to related issues, there may be additional schedule impacts that are difficult to define at this time.

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